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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/772,117	02/05/2004	Carly Uretzky-Miller	5470	4295
7590	03/23/2005		EXAMINER	
Charles I. Brodsky, Esq. 2 Bucks Lane Marlboro, NJ 07746			MAYO, TARA L	
			ART UNIT	PAPER NUMBER
			3671	

DATE MAILED: 03/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/772,117

Applicant(s)

URETZKY-MILLER, CARLY

Examiner

Tara L. Mayo

Art Unit

3671

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 05 February 2004.

2a) This action is **FINAL**. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 14-27 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) _____ is/are allowed.

6) Claim(s) 14-27 is/are rejected.

7) Claim(s) _____ is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on 05 February 2004 is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some * c) None of:

- Certified copies of the priority documents have been received.
- Certified copies of the priority documents have been received in Application No. _____.
- Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) Notice of References Cited (PTO-892)
2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.

4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
5) Notice of Informal Patent Application (PTO-152)
6) Other: _____.

DETAILED ACTION

Specification

1. The prior objection to the Specification has been overcome by the response filed 13 December 2004.

Claim Objections

2. The prior objection to claim 15 has been overcome by the response filed 13 December 2004.

Claim Rejections - 35 USC § 112

3. The prior rejection of the claims under 35 USC §112, second paragraph have been overcome by the response filed 13 December 2004 canceling claims 1 through 13.

4. Claims 14 through 27 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

With regard to claim 14, the scope of the claimed invention is indefinite because it is unclear whether or not it is intended to encompass the encircling band. For the purposes of prosecution on the merits, the Examiner has interpreted the claim to mean the carry bag having a diameter capable of enclosing the yoga mat in a rolled condition. Claim 24 is similarly rejected.

The term "rich" in claim 21 is a relative term which renders the claim indefinite. The term "rich" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

6. Claims 14, 17, 18, 24, 25 and 27 are rejected under 35 U.S.C. 102(a) as being anticipated by *YogaSite.com: Yoga Props & Accessories - Silk Yoga Mat Bag*.

YogaSite.com shows:

with regard to claim 14,

the combination of a carry bag of substantially cylindrical configuration having an open first end and a closed opposite second end and a rolled yoga mat inserted through said first end into said carry bag;

wherein said carry bag has a diameter to enclose said yoga mat rolled with or without an encircling band in holding the mat furled; and

with said closed second end of said carry bag being air permeable to ventilate said inserted yoga mat;

with regard to claim 17,

further including a drawstring at such first end for closing said bag in protecting said mat against such environmental elements as rain, sleet and snow;
with regard to claim 18,

 further including a shoulder strap on an outside surface of said carry bag extending between top and bottom portions thereof;
with regard to claim 24,

 a carry bag of substantially cylindrical configuration having an open first end and a closed opposite second end to hold a rolled yoga mat inserted through said first end, with said closed second end being air permeable to ventilate said mat when placed within, and with said carry bag having a diameter to enclose said yoga mat rolled with or without an encircling band in holding the mat furled;

with regard to claim 25,

 wherein said carry bag is composed of a non-synthetic material; and
with regard to claim 27,

 further including a shoulder strap on an outside surface of said carry bag extending between top and bottom portions thereof.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a

person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 15 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over

YogaSite.com: Yoga Props & Accessories - Silk Yoga Mat Bag.

YogaSite.com fails to teach:

with regard to claim 15,

the mat being 5 ft. to 6 ft. in length and 3 ft. to 4 ft. in width; and

with regard to claim 16,

the mat being 1/8 in. to 2 in. thick.

It would have been an obvious matter of design choice to make the mat shown by *YogaSite.com* of desired dimensions since such a modification would have involved a mere change in the size of a component of the claimed invention. A change in size is generally recognized as being within the level of ordinary skill in the art. *In re Rose*, 105 USPQ 237 (CCPA 1955).

9. Claims 19 through 23 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable

over *YogaSite.com: Yoga Props & Accessories - Silk Yoga Mat Bag* in view of *Nefitco.com: Exervo Tote Bag* (02 December 2003) and *Nefitco.com: Exervo Tote Bag* (05 February 2004)

YogaSite.com further discloses:

with regard to claim 19,

said carry bag composed of a non-synthetic fabric;

with regard to claim 20,

wherein said non-synthetic fabric is silk;

with regard to claim 21,

said non-synthetic fabric being composed of a colored pattern display; and

with regard to claim 22,

wherein said synthetic fabric is floral.

YogaSite.com fails to teach:

with regard to claims 19 and 26,

the closed second end comprising a crocheted end cap; and

with regard to claim 23,

the carry bag being one of substantially 9 in. by 29 in. and 11 in. by 33 in. diameter and length dimensions, respectively.

Nefitco.com '03 and *Nefitco.com* '04 show the Exervo Tote Bag for yoga mats, the bag comprising mesh ends for ventilation.

With regard to claims 19 and 26, it would have been obvious to one having ordinary skill in the art of bags at the time the invention was made to modify the device shown by *YogaSite.com* such that the closed end would comprise mesh as taught by *Nefitco.com* '03 and *Nefitco.com* '04. The motivation would have been to provide for enhanced ventilation of the mat carried inside the bag. Although *Nefitco.com* '03 and *Nefitco.com* '04 fails to teach the manner in which the end caps made, the method of forming the device is not germane to the

issue of patentability of the device itself. Therefore, this limitation has not been given patentable weight.

With regard to claim 23, it would have been an obvious matter of design choice to make the carry bag shown by the combination of *YogaSite.com*, *Nefitco.com* '03 and *Nefitco.com* '04 of desired dimensions since such a modification would have involved a mere change in the size of a component of the claimed invention. A change in size is generally recognized as being within the level of ordinary skill in the art. *In re Rose*, 105 USPQ 237 (CCPA 1955).

Conclusion

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tara L. Mayo whose telephone number is 703-305-3019. The examiner can normally be reached on Monday through Friday 8:30 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas B. Will can be reached on 703-308-3870. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



11 March 2005


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